

COR TRAINING

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NAVY OGC

FOUNDED 1941
SECNAVINST 5430.25D
AREAS OF PRACTICE
RELATIONS WITH JAGC

AREAS OF PRACTICE

- ▣ GOVERNMENT CONTRACTS
- ▣ BUSINESS/COMMERCIAL LAW
- ▣ CIVILIAN PERSONNEL LAW
- ▣ ETHICS
- ▣ LITIGATION

CLIENTS

- ▣ COMMANDING OFFICER/EXECUTIVE OFFICER
- ▣ ACQUISITION MANAGEMENT (05)
- ▣ HEALTHCARE SUPPORT (07)
- ▣ BUMED
- ▣ MTFs/DTFs

COR TRAINING

- ▣ COR--FROM THE LAWYER'S PERSPECTIVE
- ▣ BID PROTESTS
- ▣ CONTRACT CLAIMS
- ▣ STANDARDS OF CONDUCT
- ▣ PROCUREMENT INTEGRITY

BID PROTESTS

DEFINITION

A WRITTEN OBJECTION BY AN
INTERESTED PARTY TO A
SOLICITATION FOR OFFERS OR TO THE
AWARD OF THE CONTRACT TO
ANOTHER SOURCE

STANDING

MUST BE AN “INTERESTED PARTY”

AN ACTUAL OR PROSPECTIVE OFFEROR WHOSE
DIRECT ECONOMIC INTEREST COULD BE AFFECTED
BY THE AWARD OF A CONTRACT

AVAILABLE FORUMS

- ▣ CONTRACTING AGENCY/
CONTRACTING OFFICER
- ▣ GENERAL ACCOUNTING OFFICE

AGENCY PROTESTS

- ▣ NO AWARD CAN BE MADE
- ▣ EXCEPTIONS--
 - ACQUISITION IS URGENT
 - UNDUE DELAY IN PERFORMANCE
 - BEST INTEREST OF THE GOVERNMENT

AGENCY PROTESTS

- ▣ NO SUSPENSION OF PERFORMANCE

GAO PROTESTS

- ▣ GAO IS AN INSTRUMENTALITY OF CONGRESS
- ▣ PRE-1984 GAO HAD NO DIRECT STATUTORY AUTHORITY
- ▣ COMPETITION IN CONTRACT ACT OF 1984

GAO PROTESTS

- ▣ NOTIFICATION OF THE AGENCY
- ▣ DETAILED ADMINISTRATIVE REPORT
- ▣ AGENCY NOTIFIES OTHER OFFERORS
- ▣ HEARING
- ▣ DISCOVERY
- ▣ GAO ISSUES A DECISION WITHIN 100 DAYS

GAO PROTESTS

- ▣ CONTRACT CANNOT BE AWARDED

- ▣ EXCEPTION--

HCA DETERMINES URGENT AND
COMPELLING CIRCUMSTANCES EXIST

GAO PROTESTS

- ▣ WITHIN 10 DAYS AFTER CONTRACT AWARD OF 5 DAYS AFTER AN OFFERED DEBRIEFING DATE, PERFORMANCE IS SUSPENDED OR CONTRACT TERMINATED
- ▣ EXCEPTION--
HCA DETERMINES CONTINUED PERFORMANCE REQUIRED
- ▣ THEREAFTER, NO SUSPENSION OR TERMINATION

GAO PROTESTS

- ▣ DISMISSAL ON PROCEDURAL GROUNDS
- ▣ DENIAL ON MERITS
- ▣ RECOMMENDS CORRECTIVE ACTION
- ▣ AWARD OF PROTEST COSTS AND ATTORNEY'S FEES

BID PROTESTS

- ▣ AGENCY VIOLATION OF COMPETITION IN CONTRACTING ACT
- ▣ “BAIT & SWITCH”
- ▣ FAILURE TO ADHERE TO SOURCE SELECTION FACTORS/PROCEDURES

CLAIMS

DEFINITION

A WRITTEN DEMAND BY ONE OF THE CONTRACTING PARTIES SEEKING, AS A MATTER OF RIGHT, THE PAYMENT OF MONEY IN A SUM CERTAIN, THE ADJUSTMENT OF THE CONTRACT TERMS, OR OTHER RELIEF ARISING UNDER OR RELATED TO THE CONTRACT.

CONTRACT DISPUTES ACT OF 1978

- ▣ RESOLUTION OF CLAIMS BY AND AGAINST CONTRACTORS
- ▣ COVERS ALL DISPUTES RELATED TO A CONTRACT
- ▣ APPLIES TO DISPUTES CONCERNING ALL EXPRESS AND IMPLIED CONTRACTS

CERTIFICATION REQUIREMENTS

- ▣ APPLIES TO CONTRACTOR CLAIMS
OVER \$100,000
- ▣ MUST STATE:
 - CLAIM IS MADE IN GOOD FAITH
 - SUPPORTING DATA ARE ACCURATE
AND COMPLETE
 - AMOUNT CLAIMED IS ACCURATE
- ▣ EXECUTION BY SENIOR COMPANY
OFFICIAL

INITIATION

- ▣ BY CONTRACTOR--
IN WRITING TO CONTRACTING OFFICER
- ▣ BY NAVY--
CONTRACTING OFFICER'S FINAL
DECISION

INTEREST

- ▣ ACCRUES FROM DATE CLAIM IS RECEIVED
- ▣ CALCULATED USING RATE FIXED BY TREASURY DEPARTMENT
- ▣ SIMPLE INTEREST

RESOLUTION

- ▣ CONTRACTING OFFICER HAS BROAD SETTLEMENT AUTHORITY
- ▣ EXCEPTION--
FRAUDULENT CLAIMS
- ▣ CONTRACTOR PERFORMANCE CONTINUES

CONTRACTING OFFICER'S

- ▣ REVIEWS FACTUAL BASIS
- ▣ PREPARES WRITTEN DECISION
- ▣ CERTIFIED MAIL
- ▣ TIME LIMITATIONS
 - \$100,000 OR LESS -- 60 DAYS
 - OVER \$100,000 -- REASONABLE TIME

APPEALS

- ▣ TO ARMED SERVICES BOARD OF CONTRACT APPEALS (ASBCA)
 - WITHIN 90 DAYS
- ▣ TO COURT OF FEDERAL CLAIMS
 - WITHIN 12 MONTHS

HOW IS THAT AGAIN?

- ◆ Illiterate? Write today for help.
- ◆ Dog for sale. Eats anything and is fond of children
- ◆ For sale: Antique desk suitable for lady with thick legs and large drawers
- ◆ We do not tear your clothing with machinery. We do it carefully by hand

HOW IS THAT AGAIN??

- ◆ Stock up and Save! Limit one per customer
- ◆ Tired of cleaning yourself? Let me do it
- ◆ We will oil your sewing machine and adjust tension in your home for \$1
- ◆ 115 year-old bed. New springs. Perfect for antique lover